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EXAMINER

BELOUSOV, ANDREY

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte CHRISTOPHER J. O'BRIEN

Appeal 2016-000276
Application 12/294,722¹
Technology Center 2100

Before ROBERT E. NAPPI, JOYCE CRAIG, and SCOTT E. BAIN,
Administrative Patent Judges.

BAIN, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 21–40, which constitute all claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

¹ Appellant identifies Hewlett-Packard Development Company, LP and Hewlett-Packard Company as the real parties in interest. App. Br. 3.

STATEMENT OF THE CASE

Appellant's invention relates to editing of multimedia files, and particularly, time-based editing of "digitally encoded video with synchronized audio" (or, "DEVSA"). Abstract; Spec. 3–4. Claim 21 is representative of the invention and the subject matter of the appeal, and reads as follows (with the disputed limitations in italics):

21. A method of processing digitally encoded video with synchronized audio (DEVSA), comprising:

receiving native-format DEVSA that defines a time-sequence rendering of the video and audio during playback;

encoding the received DEVSA into at least one standard-format DEVSA;

storing the encoded DEVSA in a DEVSA file;

consequent to the receiving, encoding, and storing, *creating from the DEVSA metadata usable to render the encoded DEVSA*, the metadata stored in a metadata file *separate from* the at least one DEVSA file; and

modifying the metadata file to define a different rendering of the encoded DEVSA during playback *without modifying the DEVSA file*, the different rendering specifying for playback at least one time segment of the time-sequence rendering.

App. Br. 16 (Claims App.).

Claims 21–40 stand rejected under pre-AIA 35 U.S.C. § 103(a) as unpatentable over Butt et al. (US 2006/0129909 A1; publ. June 15, 2006) ("Butt"). Final Act. 2–7.

ANALYSIS

We have reviewed the Examiner's rejection in light of the arguments raised in the Briefs. On the record before us, we cannot sustain the Examiner's rejection.

Claim 21

Appellant argues the Examiner erred in finding Butt teaches the following three limitations of claim 21: “creating from the DEVSA metadata usable to render the encoded DEVSA;” the metadata stored in a metadata file “separate from the at least one DEVSA file;” and modifying the metadata file “without modifying the DEVSA file.” App. Br. 7–11. Appellant also argues the Examiner erred in finding a rationale for one of ordinary skill to modify Butt in order to find the teachings cited. App. Br. 11–12. We are persuaded by Appellant’s argument that the record does not support the finding that Butt teaches “creating from the DEVSA metadata usable to render the encoded DEVSA.” We do not reach the remaining arguments.

The Examiner finds Butt teaches “metadata that points to locations and describes the DEVSA, [and] feeds it to a display control which renders the described portion / information from the metadata.” Ans. 5. The Examiner, however, does not identify where in Butt this teaching is found, and it is not apparent on the record before us. The Examiner cites Butt paragraph 503 as teaching metadata that points to “a location within video” or “how to best locate it and search it,” Ans. 5 (citing Butt ¶ 503), and further cites paragraph 501 as teaching metadata “located elsewhere within other files,” Ans. 5 (citing Butt ¶ 501). Neither of the foregoing teachings, however, addresses the disputed claim limitation’s requirements that the metadata be “creat[ed] from the DEVSA” and is “usable to render the encoded DEVSA.”

Accordingly, on the record before us, we cannot sustain the Examiner's rejection of independent claim 21 as unpatentable over Butt.

Remaining Claims

Claims 22–30 depend from claim 21 and, therefore, we do not sustain the rejection of those claims for the reasons set forth above.

Appellant argues the Examiner erred in rejecting claims 31–40 for the same reasons as claim 21. App. Br. 13–14. Claims 31–40 were rejected on the same basis as claim 21, Final Act. 2–4, and the Examiner does not respond separately regarding these claims in the Answer. Ans. 2–8. On the record before us, Appellant's argument persuades us of error.

Claim 31, like claim 21, recites modifying metadata to produce a different rendering of the DEVSA “without modifying the encoded DEVSA file.” App. Br. 18 (Claims App.). As Appellant argues, the passages of Butt cited by the Examiner suggest the opposite, *i.e.*, that the DEVSA file is modified. *See, e.g.*, Butt ¶ 116 (“multimedia files . . . continuously modified and updated”), ¶ 117 (“add and remove different ‘meta data’ fields stored within the file”). In the Answer, the Examiner cites Butt's teaching that “[a]dditional information can be obtained if the device reviewing the file is capable of accessing via a network other devices containing ‘meta data’ referenced from within the file.” Ans. 7 (citing Butt ¶ 116). The Examiner does not explain, however, and we cannot discern from the record, how one of ordinary skill would understand the foregoing statement (or the other paragraphs of Butt cited in the Final Office Action) as teaching or suggesting “without modifying the encoded DEVSA file.” *See* Reply Br. 3; *see also* Final Act. 3–4 (citing Butt ¶¶ 123, 189, 209, 503).

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Accordingly, we do not sustain the rejection of independent claim 31, and dependent claims 32–40, as unpatentable over Butt.

DECISION

We REVERSE the Examiner's rejection of claims 21–40.

REVERSED